

Subaqueous Lands Permit: SP-043/07
Water Quality Certification: WQ-419/07
Date of Issuance:
Construction Expiration Date:
Amended Date:
Tax Map No.: 08 -26.00-052
& 08-033.00-001

**SUBAQUEOUS LANDS PERMIT/WATER QUALITY CERTIFICATION
GRANTED TO TOLL BROTHERS INC./EASTERN STATES ENGINEERS TO REMOVE
AND DISPOSE OF APPROXIMATELY 120 CUBIC YARDS OF CONTAMINATED
SEDIMENT IN A DRAINAGE DEPRESSION CONNECTED TO AN UNNAMED
TRIBUTARY TO RED CLAY CREEK; STABILIZE THE UPPER REACHES OF TWO
UNNAMED TRIBUTARIES TO RED CLAY CREEK; ONE, APPROXIMATELY 560
LINEAR FEET, STABILIZED WITH LOG VANES AND ROCK GRADE CONTROL
STRUCTURES, PLUS TWO GRADE CONTROL STRUCTURES CONSTRUCTED
DOWNSTREAM OF THE STABILIZED REACH; THE SECOND, APPROXIMATELY
880 LINEAR FEET, USING CROSS VANES, ROCK GRADE CONTROL
STRUCTURES AND VEGETATIVE STABILIZATION PRACTICES;
AND INSTALL 26 LINEAR FEET OF 8 INCH DIAMETER SANITARY
SEWER MAIN ACROSS FEDERALLY REGULATED WETLANDS AT
THE PROPOSED GREENVILLE OVERLOOK SUBDIVISION (FORMERLY
KNOWN AS THE HERCULES TRACT) AT 500 HERCULES
ROAD, WILMINGTON, NEW CASTLE COUNTY, DELAWARE**

Toll Brothers Inc./Eastern States Engineers
250 Gibraltar Road, Suite 2E
Horsham, PA 19044

Pursuant to the provisions of 7 Del. C., §7203, and the Department's Regulations Governing the Use of Subaqueous Lands, 7 Del. C., §6003, the Department's Regulations Governing the Control of Water Pollution and Section 401 of the Clean Water Act, permission is hereby granted on this _____ day of _____ A.D. 2007, to construct the above referenced project in accordance with the approved plans for this permit (20 sheets), as approved on October 11 & 30, 2007 and received by this Division on February 1, 2007 and October 24, 2007; and application dated February 2, 2007, and received by this Division on February 1, 2007 and

February 7, 2007 with additional information received on February 7, 2007, March 20, 2007 and October 12 and 24, 2007.

WHEREAS, pursuant to the provisions of 7 Del. C., §7203, the Secretary of the Department of Natural Resources and Environmental Control through his duly authorized representative finds that it is not contrary to the public interest if this project is approved subject to the terms and conditions herein set forth.

WHEREAS, in accordance with the provisions of Section 401 of the Clean Water Act, 33 U.S.C. Section 1341 and 7 Del. C., Chapter 60, the State of Delaware, by and through the Department of Natural Resources and Environmental Control, certifies that the permitted activity will be conducted in a manner which will not violate the applicable water quality standards of the State of Delaware, subject to the terms and conditions of this approval.

This Permit/Certification is issued subject to the following conditions:

SPECIAL CONDITIONS

1. The conditions contained herein shall be incorporated into any and all construction contracts and other ancillary documents associated with earth disturbance and any other activities directly or indirectly associated with construction which may impact subaqueous lands associated with this project. The permittee and contractor are responsible to ensure that the workers executing the activities authorized by this Permit/Certification have full knowledge of, and abide by, the terms and conditions of this Permit/Certification.
2. Construction shall be conducted so as not to violate the State of Delaware Department of Natural Resources and Environmental Control, "Surface Water Quality Standards" dated July 11, 2004.
3. Prior to commencing work authorized by this Permit/Certification, all contaminated sediments associated with the tributaries to be stabilized, as identified by the "Final Remedial Action Plan," dated July 9, 2007 and the "Remedial Action Work Plan," dated September 14, 2007 and approved by the DNREC, Site Investigation and Remediation Branch (SIRB), shall be removed to an off-site disposal area. All sediment removal work including disposal shall be done in accordance with the aforementioned Plans and with the concurrence of SIRB. This office shall be notified, in writing, of the completion of the remediation work prior to starting the work authorized by this Permit/Certification.
4. All fill material associated with this project and included in the above referenced plans shall be clean and free from oils, grease, asphalt, and other contaminants.

5. All construction debris, excavated material, brush, rocks and refuse incidental to such work shall be placed above the influence of surface waters.
6. Erosion and sediment control measures shall be implemented in accordance with the specifications and criteria in the current Delaware Erosion and Sediment Control Handbook so as to minimize entry and dispersal of sediment and other contaminants in surface waters.
7. All work should be planned for periods of low waterway base flows. In the event that sediment and erosion controls are damaged or destroyed due to storm events, such controls shall be repaired and/or replaced immediately.
8. There shall be no movement of equipment within subaqueous lands or federally regulated wetlands not specifically authorized by this Permit/Certification.
9. The federally regulated wetland area disturbed as a result of installing the sanitary sewer main shall be returned to pre-construction conditions and elevations and stabilized using erosion control fabric and/or vegetative practices.
10. This office shall be notified within 10 days of the completion of the work authorized by this permit by completing and signing the enclosed Post Construction Contractor's Completion Report.
11. The stream stabilization/restoration authorized by this Permit/Certification, shall be monitored and maintained for three consecutive years beginning with the first year following construction and planting. Monitoring reports shall be submitted to the Department following each growing season and shall include an evaluation of the stream's bank and channel stability; the integrity of the structures and measures used to restore and stabilize the stream; and the survival of the planted and/or desired plant species used in the riparian zone. Recommendations for the maintenance of the stream's banks and channel stability based on the results of the annual monitoring reports shall be mutually agreed to by the permittee and the Department. It is the permittee's responsibility to take corrective actions, as necessary, to insure and maintain bank and channel stability including redesign, regrading, reconstruction of structures, or replanting as necessary. Invasive plant species control may be incorporated into the monitoring and maintenance as necessary.
12. The work authorized by this Permit/Certification is subject to the terms and conditions of the Department of the Army Permit CENAP-OP-R-2007-180.
13. A copy of this Permit/Certification must be available on-site during all phases of construction activity.

14. The structures in/or adjacent to subaqueous lands shall be for the explicit purpose of removing contaminated sediments, providing stream bank and channel stabilization and installing a sanitary sewer pipe as stated in the application.

GENERAL CONDITIONS

1. The project is to be undertaken in accordance with the plans submitted and attached hereto. Any activities not specifically authorized herein may require a supplemental approval from this office prior to the initiation of construction. A determination on the need for a supplemental approval will be made by this office pursuant to the permittee submitting written notification and revised plans indicating project changes to this office.
2. Representatives of the Department of Natural Resources and Environmental Control may inspect such work during any phase of the construction and may collect any samples or conduct any tests that are deemed necessary.
3. This Permit/Certification does not cover the structural stability of the project units.
4. Any actions, operations or installations which are considered by the Department to be contrary to the best interests of the public shall constitute reason for the discontinuance and/or removal of said action, operation or installation.
5. The issuance of this Permit/Certification does not imply approval of any other part, phase, or portion of any overall project the permittee may be contemplating.
6. This Permit/Certification is subject to the terms and conditions contained in any easement, license or lease that may have been granted by the State or any political subdivision, board, commission or agency of the State in the vicinity of the project.
7. This Permit/Certification and authorization are granted for the purposes as stated herein. Any other use without prior approval may constitute reason for this Permit/Certification being revoked.
8. This Permit/Certification shall expire if the project has not been completed within three (3) years from the date of issuance.
9. If the permittee considers three (3) years insufficient for completion of the project, the permittee may submit a project time schedule for consideration by the Department. If the time schedule is approved it shall be attached hereto and made a part hereof.

10. The permittee shall notify the Department of Natural Resources and Environmental Control within ten (10) days of the date work will be commenced.
11. The permittee shall at all times comply with all applicable laws and regulations of the Department of Natural Resources and Environmental Control.
12. The issuance of this Permit/Certification does not constitute approval for any of the activities as may be required by any other local, state or federal governmental agency.
13. This Permit/Certification is personal and may not be transferred without the prior written consent of the Department. Prior to the transfer of the adjacent upland property, the permittee shall obtain the written consent of the Department to transfer this Permit/Certification to the new upland property owner. Failure to obtain such written consent may result in the revocation of this Permit/Certification and the removal of all structures authorized by this Permit/Certification at the expense of the permittee.
14. This Permit/Certification may be revoked upon violation of any of the above conditions.

IN WITNESS WHEREOF, I, Laura M. Herr, the duly authorized representative of John A. Hughes, Secretary, Department of Natural Resources and Environmental Control, have hereunto set my hand this _____ day of _____, 2007.

By Laura M. Herr, the duly authorized
representative of the Secretary of the
Department of Natural Resources and
Environmental Control